

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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**Court Minutes**

**July 28, 2008**

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Sims, Associate Justice; Raye, Associate Justice; Hull, Associate Justice; and Haskett, bailiff.

**C057410      DEPARTMENT OF CORRECTIONS AND REHABILITATION v. WORKERS' COMPENSATION APPEALS BOARD et al.**

Cause called. Michael A. Bishop argued for petitioner. Peter J. Donoghue appeared only for real party in interest. Robert J. Sherwin argued and Allison E. Barrett appeared only for respondents. Cause submitted.

At 9:58 a.m., the court recessed. At 10:02 a.m., the court reconvened.

**C054124      MARTINEZ et al. v. REGENTS OF THE UNIVERSITY OF CALIFORNIA et al.**

Cause called. Kris W. Kobach and Mike Brady argued for appellants. Ethan P. Schulman argued for Regents of the University of California et al. Andrea M. Gunn appeared only for respondents Board of Trustees. Julie Weng-Gutierrez, Deputy Attorney General, argued for respondents Board of Governors. Cause submitted.

At 11:02 a.m., the court recessed. At 2:03 p.m., the court reconvened with Blease, Associate Justice; Davis, Associate Justice; and Butz, Associate Justice.

**C055101      MONROE et al. v. SINGH**

Cause called. Leslie M. Mitchell argued for appellants. Alicia A. Pell argued and David S. Ettinger appeared only for respondent. Cause submitted.

At 2:24 p.m., the court recessed. At 2:25 p.m., the court reconvened. .

**C054808      CLAUDINO v. PATRICIA ANN PEREIRA, as Trustee, etc.**

Cause called. Kathleen M. Abdallah argued for appellant. Kenneth M. Foley argued for respondent. Cause submitted.

At 2:50 p.m., the court recessed. At 2:54 p.m., the court reconvened with Sims, Associate Justice; Davis, Associate Justice; and Hull, Associate Justice.

**C053373      RECHTIN v. STATE BOARD OF BEHAVIORAL SCIENCES et al.**

Cause called. John L. Fleer argued for appellant. Hannah Hirsch Rose, Deputy Attorney General, argued for respondents. Cause submitted.

At 3:25 p.m., the court recessed until Monday, August 18, 2008

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**Court Minutes**

**July 28, 2008 continued**

- C052987      THE PEOPLE v. CRISLER      (Not For Publication)**  
The judgment is affirmed.  
HULL, J.  
We Concur: Davis, Acting P.J.  
Cantil-Sakauye, J.
- C055755      THE PEOPLE v. MELINE      (Not For Publication)**  
The judgment is modified by striking special probation condition No. 20.  
As modified, the judgment is affirmed.  
ROBIE, J.  
We Concur: Davis, Acting P.J.  
Morrison, J.
- C057494      THE PEOPLE v. HUBER      (Not For Publication)**  
The judgment is affirmed. The trial court shall strike the fines imposed under Penal Code section 1465.7, subdivision (a) and Government Code section 70372, and send a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.  
ROBIE, J.  
We Concur: Davis, Acting P.J.  
Nicholson, J.
- C054060      COUNTY OF SACRAMENTO v.      (Certified For Publication)**  
**AFSCME LOCAL 146 et al.;**  
**PUBLIC EMPLOYMENT RELATIONS**  
**BOARD**
- C054233      COUNTY OF SACRAMENTO v.**  
**AFSCME LOCAL 146 et al.;**  
**PUBLIC EMPLOYMENT RELATIONS**  
**BOARD**  
The orders of the trial court granting the County's requests for injunctive relief in both Case No. 06AS03704 and Case o. 06AS03790 are reversed. The matter is remanded to the trial court with directions to dismiss the two actions for lack of subject matter jurisdiction. Defendant unions and PERB are entitled to their costs on appeal.  
HULL, J.  
We Concur: Sims, Acting P.J.  
Davis, J.

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**Court Minutes**

**July 28, 2008 continued**

**C059321      In re JENKINS on Habeas Corpus**

BY THE COURT:

Respondent's petition for rehearing is granted. The decision filed on July 10, 2008, is vacated and the appeal is reinstated.

The trial court clerk is directed to prepare the record in accordance with rule 8.320 of the California Rules of Court. The parties are directed to address in their respective appellate briefs the issue of timeliness of filing of the notice of appeal.

MORRISON, Acting P.J.

**July 29, 2008**

**C055284      THE PEOPLE v. SCOTT      (Not For Publication)**

The judgment is affirmed.

DAVIS, J.

We Concur: Scotland, P.J.

Blease, J.

**C058207      THE PEOPLE v. MATA      (Not For Publication)**

The judgment is affirmed.

NICHOLSON, J.

We Concur: Blease, Acting P.J.

Butz, J.

**C055459      ROMMELL v. BEAR VALLEY SKI  
COMPANY et al.      (Not For Publication)**

The judgment is affirmed.

DAVIS, Acting P.J.

We Concur: Hull, J.

Cantil-Sakauye, J.

**C055881      EYSTER v. EYSTER**

BY THE COURT:

Appellant's request to publish the opinion filed on July 02, 2008, is denied.

BLEASE, Acting P.J.

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**Court Minutes**

**July 30, 2008**

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| <b>C052061</b> | <b>THE PEOPLE v. ALVAREZ</b><br>The judgment is affirmed.<br>SCOTLAND, P.J.<br>We Concur: Sims, J.<br>Morrison, J.   | <b>(Not For Publication)</b>       |
| <b>C054015</b> | <b>THE PEOPLE v. BROWN</b><br>The judgment is affirmed.<br>MORRISON, J.<br>We Concur: Davis, Acting P.J.<br>Robie, J.  | <b>(Not For Publication)</b>       |
| <b>C054743</b> | <b>THE PEOPLE v. GONZALES</b><br>The judgment is affirmed.<br>CANTIL-SAKAUYE, J.<br>We Concur: Davis, Acting P.J.<br>Morrison, J.  | <b>(Certified For Publication)</b> |
| <b>C054853</b> | <b>THE PEOPLE v. ZANINI</b><br>The matter is remanded for the trial court to amend the abstract of judgment to detail, as to count 5, the amount of the fine under Vehicle Code section 23554 and the amount of any penalty assessments. The trial court shall forward a certified copy of this amended abstract of judgment to the Department of Corrections and Rehabilitation. In all other respects, the judgment is affirmed.<br>DAVIS, Acting P.J.<br>We Concur: Morrison, J.<br>Robie, J. | <b>(Not For Publication)</b>       |
| <b>C054892</b> | <b>THE PEOPLE v. DEVENECIA</b><br>The judgment is reversed.<br>DAVIS, Acting P.J.<br>We Concur: Morrison, J.<br>Robie, J.  | <b>(Not For Publication)</b>       |
| <b>C055500</b> | <b>THE PEOPLE v. VINCENT</b><br>The judgment is affirmed.<br>NICHOLSON, J.<br>We Concur: Sims, Acting P.J.<br>Cantil-Sakauye, J.   | <b>(Not For Publication)</b>       |

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**Court Minutes**

**July 30, 2008 continued**

- C055873      THE PEOPLE v. GIGER      (Not For Publication)**  
The judgment is reversed and the case remanded for proceedings consistent with this opinion.  
BLEASE, Acting P.J.  
We Concur: Nicholson, J.  
Hull, J.
- C057470      THE PEOPLE v. GODINEZ      (Not For Publication)**  
The judgment is affirmed. The trial court is directed to correct the abstract of judgment to show a \$200 restitution fine in each case, a \$200 probation revocation restitution fine in case Nos. 057076 and 056715, and a drug program fee in Case No. 056715. The court shall forward a certified copy of the corrected abstract to the Department of Corrections and Rehabilitation.  
BLEASE, Acting P.J.  
We Concur: Nicholson, J.  
Hull, J.
- C052005      DION v. BLAKE (WHITEHURST)      (Not For Publication)**  
The December 20, 2005, court order is affirmed. Mother shall recover her costs on appeal. ...  
SIMS, Acting P.J.  
We Concur: Robie, J.  
Butz, J.
- C053954      BALAGUY v. BALAGUY      (Not For Publication)**  
The judgment is affirmed. Respondent Daniel J. Balaguy shall recover his costs on appeal. ...  
SIMS, Acting P.J.  
We Concur: Nicholson, J.  
Robie, J.
- C053955      HIRSCHLER v. CALIFORNIA      (Not For Publication)**  
**DEPARTMENT OF CORRECTIONS**  
**et al.**  
The judgment is affirmed. The defendants shall be awarded costs on appeal.  
BLEASE, Acting P.J.  
We Concur: Raye, J.  
Robie, J.

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We Concur: Scotland, P.J.  
Nicholson, J.

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**Court Minutes**

**July 31, 2008 continued**

**C056855      THE PEOPLE v. CUELLAR      (Certified For Partial Publication)**

The judgment is modified to stay, pursuant to section 654, the sentence on count two, uttering a fictitious check. As modified, the judgment is affirmed. The trial court is directed to amend the abstract of judgment to reflect the modification and to send a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.

ROBIE, J.

We Concur:    Scotland, P.J.  
                  Nicholson, J.

**C056859      THE PEOPLE v. STARKEY      (Not For Publication)**

The conditions of probation are modified to delete the requirement to pay the costs of probation supervision; however, the order that defendant pay such costs is affirmed. As modified, the probation order (judgment) is affirmed.

SIMS, J.

We Concur:    Scotland, P.J.  
                  Robie, J.

**C056881      THE PEOPLE v. PHOMPHAKDY      (Certified For Publication)**

The judgment is reversed.

ROBIE, J.

We Concur:    Morrison, Acting P.J.  
                  Cantil-Sakauye, J.

**C056969      THE PEOPLE v. THUNANDER      (Not For Publication)**

The judgment is modified by striking the order of restitution to Donnelly. As modified, the judgment is affirmed.

ROBIE, J.

We Concur:    Scotland, P.J.  
                  Butz, J.

**C055033      BRIAN FELIX, INC., et al. v. MAMMOTH      (Not For Publication)  
REAL ESTATE COMPANY, INC., et al.**

The judgment is affirmed. The defendants shall recover their costs on appeal. ...

NICHOLSON, J.

We Concur:    Sims, Acting P.J.  
                  Hull, J.

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**Court Minutes**

**July 31, 2008 continued**

- C055219      CPE HR INC., et al. v. CALIFORNIA      (Not For Publication)**  
**UNEMPLOYMENT INSURANCE**  
**APPEALS BOARD; EMPLOYMENT**  
**DEVELOPMENT DEPARTMENT**  
The judgment is affirmed. The department and the board shall recover their costs on appeal. ...  
ROBIE, J.  
We Concur: Hull, Acting P.J.  
Cantil-Sakauye, J.
- C057156      STATE OF CALIFORNIA ex rel.      (Certified For Publication)**  
**DEPARTMENT OF PESTICIDE**  
**REGULATION v. PET FOOD**  
**EXPRESS LIMITED**  
The August 8, 2007, order compelling Pet Food Express Limited to comply with the administrative subpoena is affirmed. The State of California Department of Pesticide Regulation shall recover its costs on appeal. ...  
SIMS, J.  
We Concur: Scotland, P.J.  
Hull, J.
- C055016      In re MARCUS P. et al.; SACRAMENTO      (Not For Publication)**  
**COUNTY DEPARTMENT OF HEALTH**  
**AND HUMAN SERVICES v. T.J. et al.**  
The judgments are affirmed.  
SIMS, J.  
We Concur: Scotland, P.J.  
Robie, J.
- C057931      In re JUSTIN M.; TRINITY COUNTY      (Not For Publication)**  
**HEALTH AND HUMAN SERVICES**  
**v. GRETCHEN W. et al.**  
The order terminating parental rights is reversed and the matter is remanded for the limited purpose of securing compliance with the notice provisions of the Indian Child Welfare Act. ...  
NICHOLSON, J.  
We Concur: Davis, Acting P.J.  
Robie, J.



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**Court Minutes**

**August 1, 2008**

**C055742      THE PEOPLE v. BOTTS      (Not For Publication)**

The judgment is affirmed.

SCOTLAND, P.J.

We Concur:    Sims, J.

Hull, J.

**C057883      THE PEOPLE v. MENDEZ, JR.      (Not For Publication)**

The judgment is affirmed.

SCOTLAND, P.J.

We Concur:    Sims, J.

Cantil-Sakauye, J.

**C055420      THE PEOPLE v. ERWIN**

**BY THE COURT:**

On July 1, 2008, this court issued an order in the above-referenced matter recalling the remittitur issued May 6, 2008, and directing the trial court clerk to return the original remittitur to this court. On July 31, 2008, the Sacramento County Superior Court, by deputy clerk N. Wallace, filed a declaration stating that it is unable to locate the original remittitur and cannot, as result, comply with this court's order.

Good cause appearing, on the basis of the trial court's declaration, the remittitur in the above-referenced matter is deemed returned and the clerk of this court is directed to proceed in accordance with this court's July 1, 2008, order and refile the opinion in this matter.

SCOTLAND, P.J.